

N 1180

~~Advertisement~~

77

THE Truth of the Depositions Printed
is incontrovertible: If any one has
any Doubt of them, let them but wait
till Col. M'Carthy's Trial: they will there
probably hear the same charges made
in a Court of Law, and then they will
be able to judge for themselves.
It is necessary to give this Advertisement; ha-
ving often mentioned them in this Paper.

M. A. Those Depositions are to be had
at M. A. M'Carthy's near the Court in
M. M'Carthy

Price Three Pence.

Advertisement.

THE Truth of the *Depositions* Printed is incontrovertible : If any one has any Doubt of them, let them but wait till Col. *Hamilton's* Tryal ; they will there probably hear the Men themselves speak, if, on Occasion, any thing relating to Mr. *Maccartney* be offer'd. I thought it necessary to give this *Advertisement* ; having often mentioned them in this *Paper*.

N. B. Those *Depositions* are to be had at *A. Baldwin's*, near the *Oxford Arms* in *Warwick Lane*.

Price Three-Pence.

A. 501. 6. 28
II

DEFENCE

OF

Mr. Maccartney.

By a FRIEND.

Non talia audivimus.

The Second Edition.

L O N D O N :

Printed for A. Baldwin, near the
Oxford-Arms in Warwick-Lane,
M DCC XII.

(Price Six-Pence.)

A
REFERENCE
OF
M. Maccautney.

By a FRIEND.


Very truly yours

The Second Edition.

LONDON.

Printed for A. Baldwin, near the
Oxford-Arms in Warwick-Lane,
MDCCLXII.
(Price Six Pence.)

THE
PREFACE.

WHAT is here offer'd is to clear an unhappy Gentleman from the Malicious Reflections his Enemies have thrown upon him. This is a Private Case; and tho' a Proclamation is issu'd to apprehend Mr. Maccartney, there appears nothing in that Proclamation, to warrant the Reports that have been industriously spread about him. It is said there, that My Lord Mohun did Murder Duke Hamilton: And as we have that Authority to support our Asserting, that Mr. Maccartney did not do it: So we cannot help observing,

The P R E F A C E.

observing, that the Malice of his Enemies, in charging him with a Fact so much against the Tenor of the Proclamation, seems to be the only Offence the State has met with in this Dispute. I have seen nothing that gives the least Colour to such a Surmise: On the contrary, the Dispositions appear plain in the Matter. How was it possible then, for any Friend of Mr. Maccartney's, to bear all the Calumnies with which he is daily aspers'd, and not have one Word to say for him? Friendship must indeed be run to a very low Ebb, when Scandal can fright a Man from justifying a Friend, whose Misfortune has hinder'd him from justifying himself: And there can be no Harm sure, in supposing a Man of Honour to be innocent of a Crime, which it was impossible for such a Man to commit. In speaking of these Things, it was requisite to say something of Duels, on the Foot they now stand:

The PREFACE.

stand: And it is as requisite to premise here, that what is said is not intended to affront either Religion or Law. 'Tis design'd to shew, how in a particular Manner the Soldiery cannot avoid them without Ruin, and loosing both their Reputation and their Bread. No Man in his Wits can think, that Men of Sense and Honour engage in premeditated Duels, out of Wantonness and Sport; and that they would not be as willing as any Men to have their Honour defended from Insults by safer Methods than they are now oblig'd to. But, while they are under the unhappy Necessity of using their Swords, as is shewn in this Paper, and the Attempts the Legislature has made against it, prove so ineffectual; it cannot be taken ill that they fairly represent this Case, and leave it to the Impartial Judgment of the Reader.

A D E-

land: And it is as requisite to pre-
 sent here, that what is said is not in-
 tended to assert either Religion or
 Error. It is designed to show, that
 in a particular Manner the Society
 cannot avoid them without Risk, and
 losing both their Reputation and
 their Bread. No Man in his
 Wits can think, that Men of
 Sense and Honour engage in pre-
 mediated Duels, out of Honour-
 ness and Shame, and that they would
 not be as willing as any Man to have
 their Honour defended from Insults by
 proper Methods: that they are more
 oblig'd to. But, while they are un-
 der the unhappy Necessity of using
 their Swords, as is shown in the
 Paper, and the Attempts the Legisla-
 ture has made against it, prove so in-
 effectual; it cannot be taken ill that
 they fairly represent this Case, and
 leave it to the impartial Judgment of
 the Reader.

A

DEFENCE

OF

Mr. *Maccartney*.

I Have long and intimately known Mr. *Maccartney* : He has honour'd me with the Title of his Friend, and as such I look upon my self under an indispensible Obligation, to justify his Character from the false and malicious Aspersions the Invidious Part of this Town and Nation, have Ungenerously, and in his Absence, charg'd him with. We are inur'd to Scandal, and should not be surpriz'd at any Thing of this Sort : yet I must wonder, so Ingenious, so Delightful, and so Inoffensive a Man, as Mr. *Maccartney*, should meet with such Treatment. Not Three Years since, this Nation flourish'd not more in Conquest than in a generous Treatment of the Vanquish'd ; and none more eminently in both than the Soldier my Friend. Let his Enemies, from whom these malicious Reflections proceed, consider him as of the Ruin'd Party ; and not when he

B

19

is undone, insult over him. All that he was worth was taken from him before this unhappy Accident, but his Reputation; if it is necessary to them they must have it, let them get it by vertuous Labour, as he has done, and enjoy it.

In the Defence of my Friend I shall endeavour to prove,

First, No Man of Honour can avoid a Duel, or refuse being a Second.

Secondly, I will state the Charges lay'd against Mr. *Maccartney*, and answer them as I state them, chiefly from the Evidence at the Coroner's Inquest.

Thirdly, I will give a short Historical Account of Mr. *Maccartney's* Services and Preferments, to the Day he was forc'd in the Honourable Service of a Friend to fly his Native Country, and all that is dear in it.

As to the First, That no Man of Honour can avoid a Duel, or if demanded, can avoid being a Second.

This is so receiv'd an Opinion, I wonder it admits of any Dispute. I have heard many argue against Duels, and have known those very Persons on this very Argument practise them. I shall easily prove, no Nation where they have been practis'd have been able to prevent them; from whence I must infer, that if the several Legislatures of *Europe* have not been able to find a Remedy for this Evil, nor no way of making injured Honour an ample

ample Reparation, then a Man of Honour has no other recourse but to a Duel, or live under a Blemish'd Reputation : Such a Man must at all Hazards justify himself, and the Law should wink at such Misfortunes it can't with Justice prevent or repair.

That no Nation where Duels have been customary, have been able to prevent them ; I shall argue from the *French* : They have made the best Efforts towards it : They have Published several Edicts against Duellists, whereof Two are most Famous and the Latest : The First in the Minority of *Lewis* the XIIth, during the Regency of *Mary de Medicis* his Mother, which was express'd in as strong Terms as any since Publish'd, but could not be so rigorously put in Execution, as no new severe Law can ; for in the History of that Minority and Reign, we see they were forc'd to wink at them for some time after the Publication of that Edict ; as in the Case of the Chevalier *de Guise*, (Brother to the Duke *de Guise*) who in a Set Duel kill'd the Baron *de Lux* ; The Queen Regent order'd a strict search to be made for him. In about a Month after, he appear'd at Court, fought a Second Duel with the Baron's Son, kill'd him, and again absconded : yet, notwithstanding the Edict, in as little a time after, she promoted him to the Government of *Provence*. The last Edict was Publish'd by the present King of *France* : He had better Opportunities of compelling a more rigid Obedience to his Edicts ; his Power was Arbitrary, and his Will a Law. The Enormity of Duels was become outrageous ; Parties fought by Tens

and Twenties of a Side. To this the Punishment of Two or Three Persons of Distinction put a stop : But will any one tell me that a Stop is put to Duels ; I own, the Formality of them is in a great measure hinder'd, as well as the Number engag'd. Yet is there in *Europe* a Country where more frequent Combats are heard of, which evade the Edict by the softer Name of Re-encounters ? I hope we of *Great-Britain* shall draw no Conclusions, not even right ones, from Despotick Power, lest flattering it where it may possibly be once in the Right, we run into a Million of Errors, to the destruction of our Constitution. The Quarrels of Noblemen have in this Country been prosecuted by Intestine Wars by them and their Vassals, but scarcely since the *Saxons* : How long it prevail'd in *Scotland* I don't know, but the Union I hope at least put an end to the War of *Clans*. We have scarcely heard in our Country of Tens and Twenties engag'd in private Duels.

What Endeavours *France* has us'd to suppress Duels, have been already mention'd. *England* has not been negligent on her Part. The Usurpers, after the Death of King *Charles* the 1st, made it one of the First Abuses which they pretended to reform ; but it had the Effect of all their other Reforms. After the Restoration, Duels were more practis'd in *England* than ever ; *Barn-Elm* became famous for them. And in the Year 1679 King *Charles* put out a Proclamation against them, in which he promis'd not to pardon any Man that was concern'd in one : yet we do not meet with One Instance of a Gentleman whom he did not pardon after Conviction. In 1699, a Bill was brought
into

into the *House of Commons*, to prevent Duels; but it was lost there, for the same Reason, that it miscarried lately, when 'twas brought in on the Death of Sir *Chalmley Deering*. I have heard from good Hands, that the Gentleman who promoted that Bill, consulting a Friend of his upon it while it was in *Embrio*, and debating with him the Inconveniencies that would arise from the several Branches of it; confess'd at last freely, That 'twas impracticable, and no Law could be made to hinder Duels, which would not be more mischievous than Duels themselves. Indeed the Reason of the Thing speaks it self. Custom has made it necessary; and a Custom confirm'd by the Consent of almost a Thousand Years; as well as the Opinion of the best and greatest Men of our own Age. To instance only in the late King *William*, who was so admirable a Judge of Men and Things: A great Lord of this Kingdom making grievous Complaints to him of a Gentleman who had debauch'd his Wife; the King stopt him in the Career of his Story, with this short Question, *Is the Man Alive?*

It is prov'd, That we in *England* have no express Law against Duels. The Lawyers indeed, who are no Favourers of Men of the Sword, have made no Distinction between Honourable Resentment and premeditated Murder; and on that Act they try us; but if we look into the Law of Combat, we shall find many Instances, where even the Law countenances it.

The Law of Combat, which is call'd by the Lawyers *Duellum*, which is as the describe,

an

an equal Opposition of Manto Man with Swords or equal Weapons; has, besides Custom, an Act of Parliament for its Sanction, the 27th. of *Edw. I. de finibus Levatis*. I am not ignorant, this Law has Relation to Civil Causes, especially to the justifying Evidences; and I chuse to quote it as adapt to the present Occasion; For if the Principals can be any way justify'd, the Seconds are of course. The Civil Law, which is the Law of Nations, justifies in a particular manner the determining Causes by the Sword*. All our common Lawyers are plain to the same Point, both as quoted in underneath. I confess I am not so learned, as to assert from my own Reading, the Quotations I have made; but if they are false, the *Law-Dictionary* is blameable, which farther adds, *Tho' this sort of Combat is disus'd, the Law is still in Force*†. Our Ancient Histories are full of this Subject: I shall satisfy my self, by giving one Instance. In the Year 1630. the Lord Rey and David Ramsay demanded a Duel; and the Opinion of all the Judges was, it cou'd not be refus'd them: After many Formalities, the Dispute was referr'd to the King, and a Temperament was found out to continue the Cause in the usual Course.

If now we consider the Duellists, our present Subject, we shall find they only differ in Points and Niceties; rather Matter of Dis-

* *Paris de Puteo de Re Militari & Duello. Alciat de Duello, Hottoman Disputatio Feudalium, &c.*

† *Glanville, Lib. 14. Cap. 1. Coke upon Lit. fol. 294. Dyer, fol. 301. Spelman Gloss. Verh. Campus, &c.*

pute for Lawyers, than Men of Action. To this I may add:

A true *Briton's* great Soul is above the Meanness of Revenge; he rather scorns than punishes an Injury: But if his Honour be too grossly touch'd, with his own Hand he rights it, fairly opposing his Adversary Person to Person, and with equal Weapons; he no sooner has justify'd his Honour (if happily without Mischief) than the Offender is forgiven. 'Tis true, that desperate Wounds and Death are often the Consequences of such Disputes, but not done for *Anger* but for *Honour*.

The other Part of the Position remains to be prov'd, That no Man of Honour can refuse to be a Second. If a Man asks another to be his Second, he does him the greatest Honour: As when he nominates an Executor to his Will, or a Guardian to his Child, he imposes the greatest Trust; all these Employments are troublesome, but are Marks of the highest Esteem. Now tho' a Man, I do not well know, shou'd ask this of me, I don't see how I cou'd in Humanity refuse him: If a Friend demands that Office, it becomes a Duty; for Friendship has no Name, if in Cases of Honour it admits of any Reserve. The being a Second is a charitable Office, who go out according to our Custom, *not to Fight*, but to see each his several Friend do himself Justice. How many Instances have we known, where one of the *Principals* has been run thro' the Body; and the Two *Seconds* interposing, have hinder'd the Man wounded to revenge himself; (tho' possibly, by such a Wound

Wound not made incapable;) thinking it more than sufficient, that One should fall in the Cause of any Quarrel? How many Instances might be given, where, when the Two Principals have fought themselves out of Breath, without any (or mortal) Wound, the Seconds have interpos'd, and parted them?

I have hitherto consider'd Men of Honour, whether of, or not of the Army in general; but I must observe: However inexcusable it is for private Men, in regular Governments, to be Judges and Arbitrators of their own Wrongs, in the Soldiery 'tis of absolute Necessity Duels shou'd not be forbid: The Use of 'em cultivates an Ingenuous and Modest Expression, checks Impertinence and Misbehaviour, and softens the Roughness of a Camp to the Politeness of a Court. The Use of 'em has prevail'd in most Armies; and tho' I can't say they are Countenanc'd, they are seldom or never Punish'd; And a Soldier is of no Esteem, if he does not sacrifice all Considerations to his Honour. How shall an Officer be thought to have his Country's Honour at Heart, or of what Service can such a one be capable, when he any way neglects his own? And all that have written of War have told us, That all private Men of the Army are always influenc'd by the Character of the Officer that leads them. In his Look, they first see Danger: If he's unconcern'd, they are so too: If he goes on, they follow; but if he makes a Step backward, they fly. Now let me observe, that the Soldiers are the very Reverse of other Men of Honour in their Circumstances: If a Soldier does not fight, he loses his Bread;
and

and by not fighting, any other Gentleman runs no risk of his. To conclude, I shall make use of a Famous Expression of King Charles the II. who in Compassion of the hard Condition of the Soldiery, said, *If my Officers do not fight, they are with Disgrace turn'd out of the Army; if they do, they are condemn'd by the Law.*

To the Second Point: I will state the Charges laid against Mr. Maccartney, and answer them as I state them; and that chiefly from the Evidence of the Coroner's Inquest.

If it be prov'd that a Man of Honour, when call'd upon, cannot avoid a Duel himself, nor the Service of a Friend in one, then were Mr. Maccartney and Col. Hamilton equally and necessarily engag'd in this Quarrel; yet I know not by what spiteful Turn of his Enemies, the Mischief is laid entirely upon my Friend; while he is everywhere cry'd out on as an Incendiary and Assassin, the other is treated as one who has only done his Duty.

But let us state the Fact from the *Depositions* taken before the Inquest. The Truth of which *Depositions* will, in a short time, appear at the Trial of Col. Hamilton. And I, among a Thousand other Curious People, have heard the Material Witnesses tell this Fact as stated in the *Depositions* publish'd by A. Baldwin; which proves the Truth of them.

Thursday the 13th of November, Duke Hamilton and my Lord Moban met at Mr. Orlebar's Chambers, where Duke Hamilton gave a
C gross

gross Affront to my Lord Mohun, saying, *The Evidence one of his Witnesses gave, had neither Truth nor Justice in it*; to which my Lord Mohun made as gross a Reply, *He knew Mr. Whitworth to be an Honest Man, and had as much Honour and Justice in him as his Grace*. Upon this the Quarrel was grounded: Who sent the Challenge is not by any of the Evidence prov'd; Mr. Maccartney was twice at the Duke's, and the Evening following met him at the Tavern, but what pass'd there does not appear; it can therefore only be argu'd upon Supposition, till we come to that Part in which the Evidence is clear.

Saturday the 15th of November they met in Hide-Park, drew their Swords, and in a short time both fell mortally wounded. The Seconds came in, and each of them laid hold severally of one of the Lords Sword Hands: In this Posture they were found by Two Men, who came up to them and took all the Four Swords from them; each Second took what Care he cou'd of his Friend, first put his Friend into a Coach, and then went off. In reasoning upon this Fact, I shall take the Expression out of the *Depositions*; and where I relate any thing as Fact, not mention'd in them, the Reader shall be fairly told so. 'Tis to be observ'd, That every Body agrees some Words were spoken by my Lord Mohun before they engag'd, which I am assur'd were to this Effect: *My Lord, I never did expect I should be under an Obligation from your Grace: I shall take it as such, that the Seconds may not engage*. To which the Duke reply'd surlily; *I don't care whether they do or no*.

Having

Having fairly stated the Fact, I shall proceed upon these Two Heads :

First, He is treated as an Incendiary.

Secondly, As an Assassin.

To prove he was an Incendiary, his Enemies say he carry'd the Challenge. To this I answer ; they must prove he did, and if he did, he is not for that an Incendiary. The first Aggressor, who gave the Affront, is the Incendiary ; the carrying a Challenge is no more than a precedent Act towards a Duel, subsequent to the Affront given. I must state Mr. *Maccartney's* Case yet stronger : He was an entire Friend to my Lord *Mohun* ; had Mr. *Maccartney* heard Duke *Hamilton* make any Reflections on my Lord *Mohun*, he wou'd not have sent to my Lord *Mohun* to justify himself, but wou'd immediately himself have call'd the Duke to an Account ; to prove he wou'd have done so, I will give an Instance in a like Case he did so. A Gentleman had been injuriously free with my Lord *Bolingbroke's* Character ; for which, on the Spot, he reprimanded him ; and had he not the next Morning recanted, and very effectually too, he had corrected him. This is Honourable Friendship, in these Cases a Friend's Honour is a Man's own ; and he is not worthy of the Name of Friend, who does not think and act as if it were his own. Some peaceable People have objected, he might have confin'd them : Yes, and he might too have run away from a Battle ; but if he had, Danger wou'd have follow'd him, he wou'd have

been shot by the Sentence of a Court-Martial ; and in this Method had forfeited both the Name of Friend and his Honour. To answer this Point more fully : Why did not Colonel Hamilton do so ?

Another Objection I have heard mention'd is, A Challenge ought not to be sent or carry'd to a Nobleman in so great Employ in Her Majesty's Service. To this I answer, The Import of a Challenge is no more than this : *Sir, You have done me Wrong, I expect you shou'd do me Justice.* To which the Reply is Natural, *You have deserv'd the Reflection I have charg'd you with, and I will give you Satisfaction as a Man of Honour : Name the Place.* The Conclusion from this is plain ; Employments do not protect any Man in Injustice, in the Opinion of the Possessors of them ; for Duke Hamilton's is not the only Instance by many we might give, where Great Men have voluntarily laid aside their Preeminence, to give even private Gentlemen Satisfaction.

I have heard there is a Deposition taken from One of the *Bagnio*, that he shou'd hear my Lord Mobun say to Mr. Maccartney, *He wish'd this Business had not been carry'd so far.* And the other Reply : *Why are you under such Concern ? Your Honour is engag'd, and you will, I know, go through with it as you shou'd.* To this I must observe ; The last Time Mr. Maccartney saw Duke Hamilton, till he came into the Field, was at the *Rose-Tavern* : This Business was then all fix'd ; and when two Resolute Men have two Days consider'd on a Cause of Quarrel, appointed their Time and Place of Meeting, the Thing to be done is determin'd ; and it is

frivo-

frivolous to alledge any Thing said or done after cou'd foment a Quarrel, which nothing then but the Sword cou'd decide.

We may easily imagine, this Quarrel needed no Fomentation, when we consider with what Fury D. *Hamilton* came into the Field, which made him lay aside his Regard for his Second, tho' he had so lately engag'd him in a Business, as the Event has prov'd it, in every respect so hazardous. All who have heard of D. *Hamilton's* Name, must have heard that he was a Man of Fire and Spirit : And all who have been conversant and dealt with him, did very well know the Natural Heat of his Temper, and the Warmth with which he went about the meanest Things. He was as Jealous and as Ambitious of Honour as the proudest Man living ; and was never known to recede in the least from Enterprizes that had any Bent towards Honourable Hazard : from whence we may infer, that Moderation and Reconciliation, hardly enter'd into such a Constitution ; and that the Story which some People so industriously spread about, that Duke *Hamilton* would have avoided this Quarrel, must be Fabulous if not Malicious.

I shall conclude this Head with some Things I know of Mr. *Maccartney*, which shew a high Improbability he should any way be guilty of this Charge. Mr. *Maccartney* never made any Reserve of his Purse, or his Person, to serve his Friends : and none has been more frequently and happily engag'd this Way, when he has constantly endeavour'd to heal Breaches not to widen them ;

and

and never till now met with One Unlucky Accident. To justify the Truth of this, I call all the Officers his Companions, and all who ever knew or serv'd with him, to Witness.

To the Second Point, he's treated as an Assassin. The Two Noblemen, I dare believe, were not dead before the Report of the Duel, and who were the Seconds was in Town. Mr. *Maccartney* was no sooner nam'd to have been My Lord *Mohun's* Second but the next Coffee-House had it, Mr. *Maccartney* had run the Duke through the Body behind his Back: Not one Word of this appears by any Evidence, to be so much as hinted at on the Spot, where, probably, Mr. *Maccartney* stay'd at least Half an Hour after the Action was over. It dy'd entirely upon the Surgeon's dressing Col. *Hamilton*, and was not in any Circumstance reviv'd till Seven Days after; when One *Mason*, the last sitting of the Coroner's-Inquest, produc'd a Paper as Evidence, which was Entitl'd, Col. *Hamilton's* Affidavit before a Committee of the Lords of the Council: He was ask'd, if Col. *Hamilton* had yet been examin'd by them? He answer'd, he had not, but would in Half an Hour, and then he would swear the Contents of that Paper? How are the Liberties and Laws of *England* trifled with, when a Man shall thus appear before the Country, enquiring on the Murther of One Man, and the Lives of Two others, with Suggestion? But this is not all that may be said on *Mason's* proceeding at the Coroner's-Inquest on the Body of Duke
Hamilton.

Hamilton. When any of the Witnesses were call'd in to give their Evidence, this *Mason* expatiated upon such Parts of it as he thought fit; Brow-beat the Witnesses when they said any Thing he did not like, endeavour'd to pervert what they said to his own Meaning, till by his Illegal Proceeding he so exasperated the Jury, that one of them insisted he should have the Book offer'd him if he had any Thing to produce in Evidence, if not he should retire. However the Coroner seeming to countenance his being there, he was quiet for some time, but soon after began his unfair Practices, and continu'd them till all the Sittings of the Inquest were over.

And at last, to confirm the Whole, his Enemies alledge, Col. *Hamilton* has sworn he saw Mr. *Maccartney* wound the Duke. I don't think there is any such Deposition: I have often heard it contradicted, even by such as I am satisfy'd were Col. *Hamilton's* Friends, and seem'd to have Authority for what they said from his own Mouth. The utmost I have heard of Col. *Hamilton's* Deposition from these Gentlemen, admits of a doubtful Interpretation: But till we see the Deposition its self, or have some Certainty of the Fact contain'd in it, we can't argue upon the Deposition, or what is contain'd in it. But to take this in the strongest Sense; I allow Col. *Hamilton* has the Reputation of a Man of strict Honour, and so has Mr. *Maccartney* too. These Two Gentlemen affirm a Contradiction: if 'tis necessary to know the Truth, how shall we come at it but by concurrent Evidence to the same Fact.

“ *John*

" *John Reynolds* Swore at the Coroner's
 " Inquest, That he saw My Lord *Mohun* and
 " Duke *Hamilton* fall ; My Lord *Mohun* into
 " the Ditch upon his Back, and Duke *Ha-*
 " *milton* leaning over him ; that the Two Se-
 " conds ran in to them ; and immediately
 " after them this *John Reynolds*, who demand-
 " ed the Second's Swords, which they gave
 " him without any Resistance. He then
 " wrested the Duke's Sword out of his
 " Hand ; and *Nicholson* took away My Lord
 " *Mohun's*, which he gave to *Reynolds* ; who
 " carry'd all Four Swords some distance from
 " the Parties, He was ask'd what became of
 " the Swords ? And he said they had not
 " been out of his Possession from the Time
 " He and *Nicholson* took them out of the
 " Parties Hands till the Day they were
 " brought to the Jury.

" *Nicholson* Swears, He saw the Two Lords
 " draw their Swords, make violent Passes at
 " each other, and then fall : As soon as the
 " Lords were down, the Two Seconds ran to
 " them, and were about Four Yards before
 " *John Reynolds*. When *Reynolds* and *Nichol-*
 " *son* came, one Second had hold of one
 " Lord's Sword-Hand ; and the other of the
 " other's. *John Reynolds* demanded the Se-
 " conds Swords from them, which they gave
 " him without any Resistance : Thus far
 " upon Oath. It is certain Truth, that *John*
 " *Reynolds* did shew Two Gentlemen the Ground
 " and the Posture they were in when he came
 " up to them, affirming that My Lord *Mohun*
 " fell backwards into the Ditch, and Duke *Ha-*
 " *milton* upon him with his Left Knee over his
 " Right

Right Leg; in which Posture Duke Hamilton's Left Breast lay expos'd to My Lord Mobun's Right Hand.

It is the receiv'd Opinion that both the Seconds fought, tho' it does not appear by the Depositions. I believe that they did fight; and the following Relation of their Fighting has been very well attested to me. When they fought, Mr. Maccartney wounded Col. Hamilton in the Leg, and with his Left Hand seiz'd his Sword-Arm. Col. Hamilton with his Left Hand seiz'd him by the Collar. Mr. Maccartney pointed his Sword to his Breast and said; Col. Hamilton, *Do not force me to do a Deed I may repent as long as I live; but let us part, and try to interpose to part our Friends.* Upon which Col. Hamilton let him loose; and they both ran immediately to the Two Noblemen, who were then both fall'n. Now let us see how this will agree with the Depositions. The Two Men Reynolds and Nicholson, who ran in to save them, the First Swears, that he found the Two Seconds over the Two Lords and demanded their Swords, which they immediately deliver'd. Nicholson, the other, Swears, that the Two Seconds had hold of the Two fighting Lords Sword-Hands. This answers to the Purpose Mr. Maccartney had desir'd Col. Hamilton to quit him upon, and they are found doing the Friendly Office He had recommended to Col. Hamilton. Both these Evidences farther Swear, they took the Swords first, and at the same time, from the Seconds, and then from the

Principals, which Swords were never in the Possession of any one but *Reynolds* till they were brought to the Jury. Nay, it is yet farther Swore by several of the Witnesses, that *Reynolds* was but a very little way behind the Seconds, but Four Paces. It must be in this Moment of Time such an Action could be done. Let us remark, Col. *Hamilton* had his Sword in his Hand: Why did he not in Justice to his Friend immediately attack the Murtherer? Why did he suffer himself to be disarm'd, without taking the least notice of the Barbarity his Friend had been treated with? The Wound in Duke *Hamilton's* Left Breast, has been one of the main Subjects of the Coffee-Houses. I have related the Posture he fell in, which is a Proof to me My Lord *Mobun* gave him the Wound. Another Subject amongst them is the Sword he was wounded with: They say it was a Three-Edg'd Sword. If it were so, so was My Lord *Mobun's*. But this is trivial Argument: Mr. *Ronjat*, and Mr. *Busjere*, the Two most knowing Surgeons in the World, and all experienc'd Surgeons agree with them, have given their Opinions more than once, that it is hardly possible to judge, with what Sword a Wound is given, tho' the Wound should appear never so fair. To carry this farther, I am told, Col. *Hamilton* alledges no more, to make use of his own Word, as reported to me, than that he saw Mr. *Maccartney-Poke* at the Duke. A Wound given by a Thrust or a Stab would not appear in the Body so broad as the Sword that gave it. Mr. *Ronjat*, who view'd Duke
Hamil-

Hamilton's Body, says the Wound is a large One, and tore with Struggling. If Duke *Hamilton*, and Mr. *Maccartney* Struggled, the D——l is in it if Col. *Hamilton* could not be more positive in his Evidence. This is to me Conviction.

But to omit no Circumstance, that may enforce this Truth to the Conviction of others, however unwilling some are to believe it. They say, Mr. *Maccartney* gave the Duke this Wound when Col. *Hamilton* had him in his Arms: Some say, as Col. *Hamilton* was sitting on the Ground, with the Duke between his Legs; the Duke's Back to his Face; and Col. *Hamilton's* Face over the Duke's Right Shoulder; that he saw Mr. *Maccartney* make a Poke at him. I will prove, Col. *Hamilton* never had the Duke in this or any such Posture, till the Swords were taken away: See the Evidence of *Reynolds* and *Nicholson*: They saw them from the First to the Last; they saw them draw their Swords; they saw them fight; they saw them fall; they found them on the Ground; they took away their Swords; they and the others help'd them up, Duke *Hamilton* then lying on his Face. Can any Thing be more plain. But let us see this Evidence a little farther: *Reynolds* says, he help'd to lift the Duke up, and when he was up he help'd to support him till he walk'd Thirty Yards, and then said he could walk no farther: That proves he spoke. Is there no weight in this Supposition; that if he could speak, as it is prov'd he did, he would to the last have upbraided Mr. *Maccartney* as

an Incendiary ; and if he had wounded him, as an Assassin, if Mr. *Maccartney* had any Way been guilty of either.

They add, that Mr. *Maccartney's* Sword was bloody Fourteen Inches, the Depth of the Wound Duke *Hamilton* had in his Breast. This Assertion is something odd, when the very contrary appear'd to the Jury on the Inquest ; the Four Swords were produc'd before them, Two of which were Two-edg'd Swords, One in a Gilt Hilt, the other in a Mourning Hilt, above a Handful longer than the other Two ; these appear to be the Duke's and Col. *Hamilton's*. The other Two were Hollow Blades, and common wearing Swords. Now as to the Blood found upon them, the Duke's was very bloody ; Col. *Hamilton's* had some Blood on it ; One of the smaller Swords had not the least sign of Blood upon it ; examin'd, I may say, by every Man on the Jury ; The Other was very bloody, if they please 14 Inches, and just thereabouts bent : And this was prov'd My Lord *Mobun's*. I hope this is Conviction according to their own way of Reasoning.

A Cool Sedate Temper, in Hazard and Blood, is not common to Murtherers. How calmly Mr. *Maccartney* behav'd, see *Nicholson's* Deposition : " He took him by the Hand and
 " said to him, *Honest Friend bear witness we en-*
 " *deavoured to part them ; and pray remember that*
 " *I in the Grey Clothes and Silver Lac'd Hat tell*
 " *you so.* When *Reynolds* had taken up the
 " Duke, this *Nicholson* and General *Maccart-*
 " *ney* endeavour'd to lift up my Lord *Mobun*.
 " *Nicholson*

“ Nicholson said, *I believe he is dead?* Maccart-
 “ ney answer’d, *God forbid! perhaps his bleeding*
 “ *inwardly may make him sick; turn him on his*
 “ *Side:* Which was done: Then he desir’d
 “ him to turn him on his Belly; which was
 “ done. The Hackney-Coachman Swears,
 “ That Mr. Maccartney order’d My Lord Mo-
 “ hun to be put into the Coach: That he
 “ stood by and saw him put into the Coach,
 “ and order’d them to carry him home. The
 “ Coachman ask’d, *who must pay him?* He
 “ said, *the Footman.* The Coachman took him
 “ by the Sleeve and said, *He brought him as*
 “ *well as My Lord Mohun, and that he should*
 “ *pay him.* Upon which he gave him Half a
 “ Crown.

As soon as my Lord Mohun was put into
 the Coach, and the Coachman paid, he
 walk’d off, not in a Hurry, but very delibe-
 rately; to which the Duke’s Footman and
 Coachman are very plain. The Footman
 swore, “ That thinking his Lord long, he
 “ went to the Place where he sat him and
 “ Col. Hamilton down, and there first met
 “ Mr. Maccartney walking towards Kensington,
 “ and immediately after met Col. Hamilton;
 “ and asking him for his Lord, he told him,
 “ *This was the worst Morning he ever saw, for*
 “ *he fear’d his Lord was mortally wounded;* he
 “ ask’d by whom? Col. Hamilton reply’d, *my*
 “ *Lord Mohun.* He was ask’d how far Mr.
 “ Maccartney was before them? He said, *He*
 “ *was walking in sight towards Kensington.*
 The Coachman swore, “ That while he
 “ was standing at the *White Pales*, he saw
 “ General

" General *Maccartney* without a Sword, walk-
 " ing by him ; That he look'd hard at him,
 " with his Arms folded, and a small Cane
 " hanging on his Wrist ; That he walk'd
 " out at the Park-Gate, and Col. *Hamilton*
 " came soon after. I shall not need to add
 any thing more to prove how calmly and
 reasonably Mr. *Maccartney* discharg'd, even
 at his Peril, the last good Offices he cou'd
 do his Friend ; nor wou'd I detract from
 Col. *Hamilton's* Honour, who did the same
 good Offices to his Friend, and necessarily
 staid longer on the Spot, as his Friend longer
 liv'd.

I shall conclude this Head with this Obser-
 vation : If Col. *Hamilton* (as the Bravest Man
 might) was surpriz'd with a Duel so despe-
 rately fought, and so mischievous as the
 Loss of Two Men of Quality, and his Friend
 as great a Subject as any in the Kingdom,
 one wou'd think it natural. But if this Argu-
 ment be thought an Excuse for his not ap-
 prehending Mr. *Maccartney*, it is stronger a-
 gainst him, that under such a Surprise he
 could make no Observation, and of Conse-
 quence give no positive Evidence.

Thirdly, I will give a short Historical Ac-
 count of Mr. *Maccartney's* Services and Prefer-
 ments, to the Day he was forc'd in the Ho-
 nourable Service of his Friend, to fly his Na-
 tive Country, and all that was dear in it.

He

He was born in *Belfast* in *Ireland*. His Father was a very rich and eminent Merchant in that Town. He was very careful in the Education of all his Children: This *George Maccartney* was a younger Son. His Father perfectly grounded him in a School Education, and sent him to *France* for his farther Improvement. His Father lay'd out in his Education, and gave him as his Fortune in his Life-time, Six thousand Pounds.

At the beginning of the Troubles in *Ireland* he came into the Service; and had the late King *William's*, then Prince of *Orange*; Commission as Captain of Dragoons, which I believe he cou'd never raise, *Tyrconnel* having taken such wonderful Care by all the wisest Precautions, to preserve that Nation to King *James*. After the Breach of *Clandis*, he came with several other Gentlemen for *England*, and return'd with the Forces were sent to reduce that Country.

Lieutenant General *Douglas* lying at his Father's House, he carry'd him a Volunrier with him, soon after he made him Lieutenant and Adjutant to the *Scotch* Guards, of which Lieutenant General *Douglas* was then Colonel, and afterwards prefer'd him to be his *Aid-de-Camp*, in which Post he serv'd him till Lieutenant General *Douglas's* Death.

Lieutenant General *Ramsay* succeeded Lieutenant General *Douglas* in the *Scotch* Guards, and continu'd Mr. *Maccartney* his *Aid-de-Camp*, and in some time after gave him a Company, and in process of time made him Major and Lieutenant Colonel to the same Regiment, the
Scotch

Scotch Guards ; which Commission takes Rank as Colonel in the Army.

His Preferments were given him neither quick nor slow , he first deserv'd them ; and as he deserv'd them, they were given him regularly.

In 1704. Her Majesty was pleas'd to give him a Commission to raise a Regiment. As he never neglected his Duty as an Officer, he set about raising his Regiment with more than usual Application, having long serv'd in the *Guards*. He prevail'd on the Officers to let him have some of their best Men to prefer to be Serjeants and Corporals in his new Regiment ; upon which it may not be improper to observe here, that he and Colonel *Hamilton*, who succeeded him in the *Scotch* Guards , had a former Dispute, which rose to some height, but was prevented : Nor is there the least Circumstance of Truth in the Story told by his Enemies on that Subject, more than that they had a Dispute , and did not fight. In this Year he rais'd his Regiment , and put it into a Condition of going Abroad to the Service.

The three principal Qualifications of an Officer are, First to put his Men into a Condition to serve : The second, To dispose them in a proper Order for Action : And the third, To lead them on with Intrepidity : By Intrepidity the Army means a cool Courage in the Commander ; and in the Subordinate Officers and Soldiers, a bold Execution of the Orders they receive. In all these, whether as a
Com-

Commander or a Subordinate Officer, Mr. *Maccartney* has distinguish'd himself; and is an absolute Master of the whole Detail of a Regiment, and of an Army.

In 1705, he went with his Regiment into *Flanders*, where he distinguish'd himself among the best Officers of the known World to be eminently Knowing.

In 1706, he was detach'd from the Siege of *Offend* to go on the Expedition with my Lord *Rivers*; who had so great dependance upon his Knowledge and Experience; He did nothing without consulting him. This Expedition prov'd to be a design'd Invasion of *France*, to revive the Disturbances *France* had met with from the *Cevennois*, and give them a Diversion that way: *Guiscard*, who formerly ineffectually had solicited it in *Holland*, coming to *England*, had prevail'd with us to undertake it. I must observe this was a Summer's Project, form'd in the Absence of the Duke of *Marlborough*, carry'd on against his Approbation, and, as I have been inform'd, to give my Lord *Rivers* what he very much solicited, Command Something, and Employments more. Accordingly that Expedition fail'd to the Coast of *France*. My Lord *Rivers* desired Mr. *Maccartney* to make a Disposition for the Landing the Troops: Which accordingly he did; and one, that several of his Friends of the Army tell me, is a Masterpiece in the Art of War. I have of-

ten ask'd to see it, but Mr. *Maccartney* had mislaid it, or, I believe, given it away. They hover'd up and down the Coast some considerable Time: Frequent Councils of War were held. *Guiscard* was ask'd, Who, and Where were his Friends? He said, All the Country, if they once Landed. And that was the whole Account he could give. At the last Council of War Sir *Cloudesly Shovel* bluntly said, If this Fellow can give us no better Account than he has hitherto done, we have no Business here: You see, the Shore is full of Soldiers to oppose your Landing. If you do Land, and expect any Assistance from me; that will depend on the Wind and Weather, not on Me. Besides, there runs all along this Coast such a Tide, unless the Wind is favourable and strong for us, we can't stem it. My Lord *Rivers* answer'd, Possibly *Guiscard* did not care to trust the Secret to a whole Council. Why then, said Sir *Cloudesly*, let him trust it to you: And if there be any Hope of Success, we'll fall to Work. Or, Let us call for *Maccartney*: Let us see what he says: Let him go to him. Mr. *Maccartney*, tho' not one of the Council, (he being then but a Colonel) was call'd for. The Debate was stated to him; and he was sent to *Guiscard*, but could learn nothing of him; and in Conclusion told them, He had known *Guiscard* in *Holland*; and they esteem'd him there as a Trifler. Upon which, they return'd Home. *Guiscard* came back to *London*; but was never after employ'd. And in a short time after, my Lord *Rivers* proceeded with the Troops to *Spain*.

I have

I have been more particular, possibly, than others will think is necessary to my Purpose in Speaking of Mr. *Maccartney*; but this was his Account of him. And as no body is a better Judge of Men, he early distinguish'd *Guiscard*, and long had trac'd him thro' his Rogueries, till he finish'd them in his Villanous Attempt upon my Lord Treasurer, and robb'd our Country of the Opportunity of punishing him.

Mr. *Maccartney* went with my Lord *Rivers* to *Spain*, where my Lord deliver'd up his Charge to my Lord *Galway*, and return'd to *England*; where at the Removal of the Duke of *Marlborough* from all his Employments, I believe it is no Secret my Lord *Rivers* did aim at, and expect the Command of the Army for some time; during which time, No-body ever caress'd any Man more, than my Lord *Rivers* did Mr. *Maccartney*. He was not an ill Judge of Men, and usually had some View when he made any extraordinary Advances any way; I am perswaded, if he had succeeded, he design'd to have, some way or other, taken Mr. *Maccartney* with him, as depending on his Knowledge and Experience: For as soon as the Duke of *Ormond* was declar'd, his Compliments to Mr. *Maccartney* extreamly abated.

Upon my Lord *Rivers*'s Return to *England*, out of Command, Mr. *Maccartney* stay'd with his Regiment in *Spain*.

In 1707. he was at the unhappy Battel of *Almanza*, where our Army was broke; not in the Want of Conduct, but by Numbers.

Never were greater Deeds of hardy Bravery (tho' oppress'd) shewn, than in this Field: And tho' we lost the Field, yet shall the *English* Honour live recorded in *Spanish* Story. Nor shall they, tho' an Enemy, neglect to mention Mr. *Maccartney* with Honour, who that Day commanded the Rear of the Retreat of a few Regiments, against the United Force of a Conquering Army; retiring into Fastnesses, they fear'd no Danger, where the Enemy, however numerous, cou'd not unequally attack them; but Hunger, to which Mortal Men must submit, overtook them, and they comply'd to Terms, but not dishonourable ones.

In 1708, he was design'd to Command a Secret Expedition; Time has shewn us it was design'd for *Canada*. (A Friend of mine, a *Whig*, looking over these Papers, desir'd me not to put in this Paragraph.) This is, said He, to tax the *Whigs* with a Project the *Tories* have miscarry'd in, and have exerted themselves in an Extraordinary manner to put in Execution. But I, who wou'd wish my Friend shou'd meet with the same Candor in the *Tories*, I think every Man is under an indispensable Duty of shewing to a deserving Man, or *Whig*, or *Tory*; will not be so devoted to a Party, as not to acknowledge Mr. *Hill* did on that Occasion, all any Man cou'd do, and has establish'd a just Character of treating a Soldier, as a Soldier shou'd treat a Soldier.

He

He was farther promis'd, That when he shou'd return from this Expedition he shou'd be made Governor of *Jamaica*; and to that End, the late Ministry communicated to him the Project of extending our Trade to the *South-Sea*, and told him they had pitch'd upon him as one qualify'd to reform the Plantation at *Jamaica*, to make that Island the Rendezvous of our Traders and Planters, and the Magazine of Necessaries, advisedly to send out Colonies, Settle, Support, and Establish them upon the Neighbouring Continent. Unhappy *George Maccartney*! One fatal Spark of Lust taken in a Drunken Fit, and fir'd at an Old Woman's Face, has spoil'd all these Glorious Projects, and robb'd thy Country of all these expected Fruits, that well-concerted Design might even now have produc'd.

I must observe, this Complaint of mighty Ravishment, which spirited up the Clergy to so severe a Prosecution, when it was try'd at the *Queen-Bench*, the late Lord Chief Justice *Holt*, his Name ever to be Honour'd and Esteem'd, declar'd it from the Bench to be a vexatious Prosecution.

In 1709, This Idle Miscarriage over, tho' dismiss'd of all his Employments, and all his Expectations, he went a Voluntier to *Flanders*, where he serv'd at the Battle of *Blaregnies* as such, and return'd to *England*.

In 1710, He was by Her Majesty's good Pleasure restor'd to a Regiment on the Death of Sir *Thomas Pendegrass*. He had his Regiment. I wish Her Majesty would again restore him to Her Favour; for there lives not

a Subject, who more reveres Her Person, or is more faithful to Her Government.

In 1711; He went over to his Regiment, and serv'd at the Siege of *Doway*, with how great Distinction let the Officers of that Army confirm. In the Service of this Siege, he not only distinguish'd himself as an admirable General Officer but as an excellent Engineer. This Campaign finishes his Misfortunes as an Officer. In this Year at *Helvoet-Sluis*, he receiv'd a Letter from my Lord *Lansdown*, then Secretary at War, That Her Majesty had no farther Occasion for his Service, and accordingly dismiss'd him from his Employments in Her Service.

Here let me never be thought a *Whigg*, if by that Name is meant, as I think, One True to his Queen, Her Service, and the Constitution of his Country; If I fail, with Honour, to mention My Lord *Lansdown*, whose Justice to the Pretensions of even the meanest Officer, without distinction of Parties, is so deservedly very remarkable.

When he was dismiss'd Her Majesty's Service, as She never assign'd any Reason why She did so, I shall not take it upon me to assign any: But I must observe, that most of the Reasons the Idle Praters about Town have assign'd, are not true in Fact.

After his Dismission, which he receiv'd with the utmost Resignation to Her Majesty's Pleasure, he spent most of his Time in the Country, Building, altering and making Gardens, and furnishing his House; in all which, he has observ'd an exact Regularity,
and

and intermixt so many pretty Turns of Fancy, they speak a Genius even that Way.

Tho' these Things, and his Appearance to the World, bespeak him a Man of Expence, his Debts are inconsiderable ; He has never wrong'd any one ; if he has sometimes contracted Debts, as soon as Money came in, he paid them : The severest Reflections the gravest can make upon him, in relation to his Conduct in this respect, is, He might have made a Fortune : He is a Man of Letters, and Master of most of the Subjects he has apply'd himself to. This is peculiar to him ; He never was Idle, or, in the common Phrase, not knowing what to do. He never sat melanchollily down, brooding black Thoughts over his Misfortunes ; but was at all Hours, and either in Prosperity or Adversity the same gay delightful Companion.

If he wou'd be merry, he was the very Spirit of the Company, infinitely pleasant and inoffensively so. If the Subject of his Discourse was serious, or he wou'd carry any Point, his Arguments were weighty, persuasive, and generally convincing. As he never offer'd to any Man, what in the same Circumstances he wou'd not do, every Word appear'd to speak the Innate Candour and Integrity of his Heart.

Here ends our Melancholy Story. The 15th of *November*, 1712. in the necessary and Honourable Service of a Friend he offended the Law ; but in the most Gracious Fountain of Goodness, Her Majesty is as infinite Mercy as in Mortality can be, to soften the Rigour of the Law.

F I N I S.

